FDA Op-Eds
Approaches
January 24, 1996

When President Clinton was elected in 1992, he thought he had received a mandate to fundamentally restructure the nation's health care system. He was only partially right.

Clinton's health care proposal failed, not because the American people thought that their system could not be improved, but because they did not believe the creation of an enormous new federal bureaucracy was the way to do it. By proposing a poor solution, the Administration squandered any chance of much needed common-sense reform.

The same scenario is now being replayed with tobacco. No one can quarrel with President's Clinton's stated objective of reducing underage smoking. However, by backing the Food and Drug Administration's plan to regulate tobacco as a drug and cigarettes as medical devices, he undermines the chance that sensible steps will be taken any time soon to prevent minors from smoking.

The story vividly illustrates why the American public has grown even more disenchanted with its politicians.

FDA Commissioner Kessler has put forth a federal, bureaucratic approach to the problem of youth smoking, when a non-bureaucratic approach already in place is beginning to work at the state and local levels.

Moreover, the President's proposal comes from an agency known as one of the least efficient in the federal government. The FDA is under heavy pressure from friends and critics alike to reform itself because of its failure to meet its critical responsibilities of keeping our food supply same and our medical products safe and up to date.

Yet, rather than reforming itself, the FDA wants to expand its jurisdiction. Not long ago, it was lobbying for an enormous new building that some compared to the Taj Mahal. Now, it wants to vastly expand its jurisdiction to include tobacco products.

The FDA would be the wrong choice even if there were a need for a new federal bureaucracy to combat underage smoking. However, the reality is that there is no need for more federal involvement. Underage smoking is already being addressed through legislative actions and industry initiatives.

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The tobacco industry has expressed a commitment to support measures that would keep tobacco out of the hands of kids. For example, as the largest tobacco company in the country, Philip Morris has taken a number of voluntary steps to reduce underage smoking such as helping retailers comply with youth access laws, ending free sampling and mail order distribution and placing additional notices on cigarette packages.

On the legislative front, Congress enacted a law in 1992 giving the states real incentives under the Substance Abuse and Mental Health Services Administration ("SAMHSA") block grants to pass and enforce legislation to prevent minors from purchasing tobacco. The law has already had an impact. All states now prohibit sales of tobacco products to minors. Many have taken effective steps to enforce those laws in an effort to significantly reduce underage smoking. For example, Mississippi passed legislation in 1994 that specifically authorized random, unannounced inspections, including sting operations using minors to test compliance.

The main obstacle to further progress by the states, according to a report this year by the Inspector General of The Department of Health and Human Services, is delay at the Federal level. Only recently has HHS responded by giving further direction to the states.

Why throw these initiatives, agreed to by a large bipartisan majority in Congress, away in favor of a federal, bureaucratic solution? Why rely on new advertising restrictions which clearly violate the First Amendment, rather than enforcement of existing laws when there is no convincing evidence that advertising causes underage smoking?

The President should know that his plan will not work. In 1987, the President's Council of Economic Advisers reported that "evidence from other countries suggests that banning tobacco product advertising has not discouraged smoking." The Administration is simply reverting to its big government instincts. It happened with health care reform, and it's happening again now.

There is another reason that the Administration may have decided to support Commissioner Kessler's misguided proposals. The President desperately needs an issue that makes him look tough and decisive. By choosing tobacco as his enemy, he could be sure that he would alienate voters mostly from the South, a region he has already written off for 1996. In other words, President Clinton may have decided that electoral politics are more important than keeping children away from cigarettes.

The longer the Administration continues to back the FDA, while ignoring its obligation to support state enforcement of

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minimum age laws, the more it appears that the President is just playing politics with this issue. And who are the losers? The children President Clinton and David Kessler say they want to protect.

The best way for the federal government to help influence children not to smoke is by effectively implementing the policy that congress has established. If the President does not realize this, he is in for a rude awakening. The American people have grown tired of paying for a bloated, inefficient federal government that reaches into every corner of their lives. They spoke last November and will speak again in 1996 if the President continues to insist on big government approaches to problems better handled by state and local governments.

Let us hope that the debate over underage smoking does not turn out like the debate over the health care system. We should not squander this opportunity to limit youth access to tobacco by focusing on a federal solution -- the wrong solution -- to this problem.

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